

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FRITZ GERALD TOUSSAINT,

Plaintiff,

-against-

LATISSE MAYS-STOVALL, MD; CLARA
MAASS HOSPITAL; JERSEY CITY
MEDICAL CENTER; KEARNY POLICE
DEPARTMENT,

Defendants.

22-CV-2924 (LTS)

TRANSFER ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff Fritz Gerald Toussaint, who resides in San Diego, California, brings this action *pro se*. Plaintiff does not allege where the events giving rise to his claims occurred, but all named Defendants are located in New Jersey. For the following reasons, the Court transfers this action to the United States District Court for the District of New Jersey.

DISCUSSION

Under the general venue provision, a federal civil action may be brought in:

(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located; (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred . . . ; or (3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

28 U.S.C. § 1391(b). For venue purposes, a “natural person” resides in the district where the person is domiciled, and a defendant corporation generally resides “in any judicial district in which such defendant is subject to the court's personal jurisdiction with respect to the civil action in question” 28 U.S.C. § 1391(c)(1), (2). Where a state has more than one judicial district, a defendant corporation generally “shall be deemed to reside in any district in that State within

which its contacts would be sufficient to subject it to personal jurisdiction if that district were a separate State.” 28 U.S.C. § 1391(d).¹

Plaintiff sues: (1) Clara Maass Hospital, located in Belleville, New Jersey; (2) Jersey City Medical Center, located in Jersey City, New Jersey; (3) the Kearny Police Department, located in Kearny, New Jersey, and (4) Latisse Mays-Stovall, a doctor at Clara Maass Hospital. In his complaint, which is unsigned, Plaintiff does not allege where the events giving rise to his claims occurred, but all named Defendants are located in the District of New Jersey. *See* 28 U.S.C. § 110. Because all Defendants are located in New Jersey, and the events giving rise to Plaintiff’s claims most likely occurred in New Jersey, venue is proper in the District of New Jersey. *See* § 1391(b)(2). While it appears unlikely that this Court would be an appropriate venue for this action under Section 1391(b)(1), it is clear that the United States District Court for the District of New Jersey is a proper venue for this action under Section 1391(b)(1), and likely under Section 1391(b)(2).

Even if it were proper for this Court to consider Plaintiff’s claims, transfer of this action appears to be appropriate. The Court may transfer claims “[f]or the convenience of the parties and witnesses, in the interest of justice.” 28 U.S.C. § 1404(a). “District courts have broad discretion in making determinations of convenience under Section 1404(a) and notions of convenience and fairness are considered on a case-by-case basis.” *D.H. Blair & Co. v. Gottdiener*, 462 F.3d 95, 106 (2d Cir. 2006). Moreover, courts may transfer cases on their own initiative. *See Cento v. Pearl Arts & Craft Supply Inc.*, No. 03-CV-2424 (LAK), 2003 WL

¹ In a state with multiple districts, if there is no such district, “the corporation shall be deemed to reside in the district within which it has the most significant contacts.” 28 U.S.C. § 1391(d).

1960595, at *1 (S.D.N.Y. Apr. 24, 2003) (“Courts have an independent institutional concern to see to it that the burdens of litigation that is unrelated to the forum that a party chooses are not imposed unreasonably on jurors and judges who have enough to do in determining cases that are appropriately before them. The power of district courts to transfer cases under Section 1404(a) *sua sponte* therefore is well established.”); *see also Lead Indus. Ass’n. Inc. v. OSHA*, 610 F.2d 70, 79 n.17 (2d Cir. 1979) (noting that the “broad language of 28 U.S.C. § 1404(a) would seem to permit a court to order transfer *sua sponte*”).

In determining whether transfer is appropriate, courts consider the following factors:

(1) the convenience of witnesses; (2) the convenience of the parties; (3) the locus of operative facts; (4) the availability of process to compel the attendance of the unwilling witnesses; (5) the location of relevant documents and the relative ease of access to sources of proof; (6) the relative means of the parties; (7) the forum’s familiarity with the governing law; (8) the weight accorded to the plaintiff’s choice of forum; (9) trial efficiency; and (10) the interest of justice, based on the totality of circumstances. *Keitt v. N.Y. City*, 882 F. Supp. 2d 412, 458-59 (S.D.N.Y. 2011); *see also N.Y. Marine and Gen. Ins. Co. v. LaFarge No. Am., Inc.*, 599 F.3d 102, 112 (2d Cir. 2010) (setting forth similar factors). A plaintiff’s choice of forum is accorded less deference where plaintiff does not reside in the chosen forum and the operative events did not occur there. *See Iragorri v. United Tech. Corp.*, 274 F.3d 65, 72 (2d Cir. 2001).

Under Section 1404(a), transfer appears to be appropriate in this case. All Defendants are located in the District of New Jersey, where it is likely that the events giving rise to Plaintiff’s claims occurred, and any relevant documents and witnesses are likely located in that judicial district. Based on the totality of the circumstances, the Court concludes that it is in the interest of

justice to transfer this action to the United States District Court for the District of New Jersey.

See § 1404(a).

CONCLUSION

The Clerk of Court is directed to transfer this action to the United States District Court for the District of New Jersey. Whether Plaintiff should be permitted to proceed further without prepayment of fees is a determination to be made by the transferee court. A summons shall not issue from this Court. This order closes this case.

The Court certifies, under 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: April 8, 2022
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge